

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

GEORGE MICHAEL KRENZ, Petitioner, vs. WARDEN ROBERT DOOLEY; FALL RIVER COUNTY SHERIFF; THE ATTORNEY GENERAL OF THE STATE OF SOUTH DAKOTA, Respondents.	5:15-CV-05045-JLV ORDER
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Petitioner, George Michael Krenz, an inmate at the South Dakota State Penitentiary, has filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court has concerns that the issue presented by Mr. Krenz is not yet ripe as he contests the power/right of Fall River County, South Dakota authorities to take him into custody when he finishes his penitentiary sentence. However, Mr. Krenz is currently in the custody of the warden of the state penitentiary, not Fall River County authorities.

Ripeness is a doctrine premised upon constitutional limitations arising out of Article III as well as prudential reasons. National Park Hospitality Ass’n. v. Dept. of Interior, 538 U.S. 803, 807-08 (2003); Brooks v. Little Rock Sch. Dist., 2007 WL 1461787 *1 (8th Cir. 2007); Bergstrom v. Bergstrom, 623 F.2d 517, 518 (8th Cir. 1980). In layman’s terms, “ripeness” refers to whether a claim rests upon a contingent future event. In this case, the court has

ripeness concerns because Mr. Krenz's habeas claim appears to rest on a future contingent event—his passing into the custody of the Fall River County authorities. If that event happens, Mr. Krenz's claim will become ripe. If it does not, his claim may never materialize.

Because ripeness may implicate the court's subject matter jurisdiction, the court may raise the issue on its own motion. Nat'l. Park Hospitality Ass'n., 538 U.S. at 808; Brooks, 2007 WL 1461787 *1; Bergstrom, 623 F.2d at 518. After review of the present record, the court is unable to determine the ripeness issue itself. Accordingly, based upon the record,

IT IS ORDERED that:

- (1) the Clerk of Court is directed to serve upon the respondents and the Attorney General of the State of South Dakota a copy of the petition and this Order;
- (2) respondents will file and serve a response to the petition within thirty (30) days after receipt of this Order;
- (3) both parties are directed to address the ripeness issue in pleadings which must be filed with the court within thirty days after the date of this Order.

DATED June 17, 2015.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge